

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC,**

Plaintiff,

v.

DEEZER, INC.,

Defendant.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild Broadcast Distribution Systems”) files this complaint against Deezer, Inc. (“Deezer”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the “’221 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office at 1801 NE 123 Street, Suite 314, Miami, FL 33181.
2. On information and belief, Defendant is a Delaware corporation, with a place of business at 383 Corona St., Denver, CO 80218. On information and belief, Defendant may be served with process through its registered agent, Paracorp Incorporated, 2410 S. Dupont Hwy., Camden, DE 19934.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because Defendant is deemed to be a resident in this District.

BACKGROUND

8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '221 Patent, entitled "System and Method for Storing Broadcast Content in a Cloud-Based Computing Environment" after the USPTO completed a full and fair examination. The '221 Patent is attached as Exhibit A.

9. Rothschild Broadcast Distribution Systems is currently the owner of the '221 Patent.

10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

11. The '221 Patent contains thirteen claims including two independent claims (claims 1 and 7) and eleven dependent claims.

COUNT ONE **(Infringement of United States Patent No. 8,856,221)**

12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set forth herein.

13. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*


14. Defendant has knowledge of its infringement of the '221 Patent, at least as of the service of the present complaint.

15. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 7, of the '221 Patent by making, using, importing, selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the '221 Patent.

16. Accordingly, Defendant has infringed, and continues to infringe, the '221 Patent in violation of 35 U.S.C. § 271.

17. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, the Deezer streaming platform, and any similar products ("Product"), which infringes at least Claim 7 of the '221 Patent.

18. The Product practices a method of storing (e.g., cloud storage) media content (e.g. and recorded music) and delivering requested media content to a consumer device. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

An advertisement for Deezer's cloud-based queue list. It features a laptop and a smartphone displaying the Deezer interface. The laptop screen shows a queue list with song titles and album covers. The smartphone screen shows a song playing. The Deezer logo is in the bottom right corner.

Your queue list is now stored on the cloud, making it easier to enjoy non-stop music across all your connected devices. Now you can switch between mobile, tablet or desktop without losing track of your music and other content.

How does it work?

The cloud-based queue list improves your cross-device listening experience by ensuring all your content is stored in the cloud as opposed to locally on just one device. All your repeat, shuffle and other audio preferences will also be synced.

Below we explain how paid subscribers can add, arrange and remove songs from their queue list.

Source: <https://support.deezer.com/hc/en-gb/articles/115004529809-Cloud-based-queue-list>

Experience Flow, only on Deezer.

Flow is all your favorite music, mixed with fresh recommendations and songs you forgot you loved. It gets to know what you like and what you don't, and plays an infinite stream of music chosen just for you. All you have to do is press the button.

Source: <https://www.deezer.com/us/features>

19. The Product necessarily includes a receiver configured to receive a request message including data indicating requested media content (e.g., the Product must have infrastructure to receive a request to store recorded media content or to stream recorded media content on a smartphone; additionally, the request message must contain data that identifies the content to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to access the contents of the Product). Certain aspects of these

elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

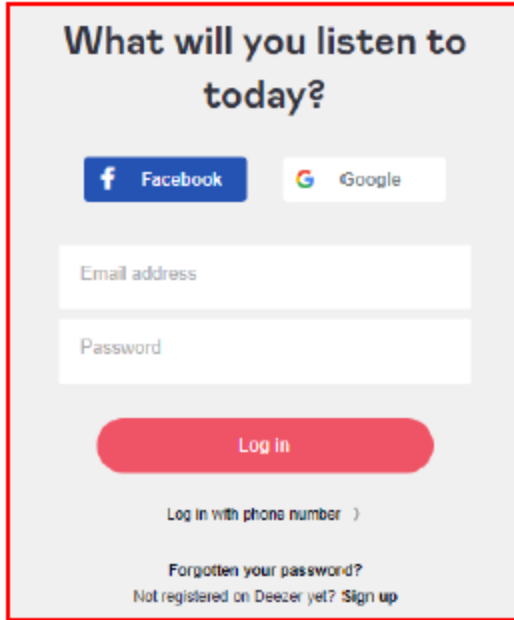


Source: <https://support.deezer.com/hc/en-gb/articles/115004529809-Cloud-based-queue-list>

Experience Flow, only on Deezer.

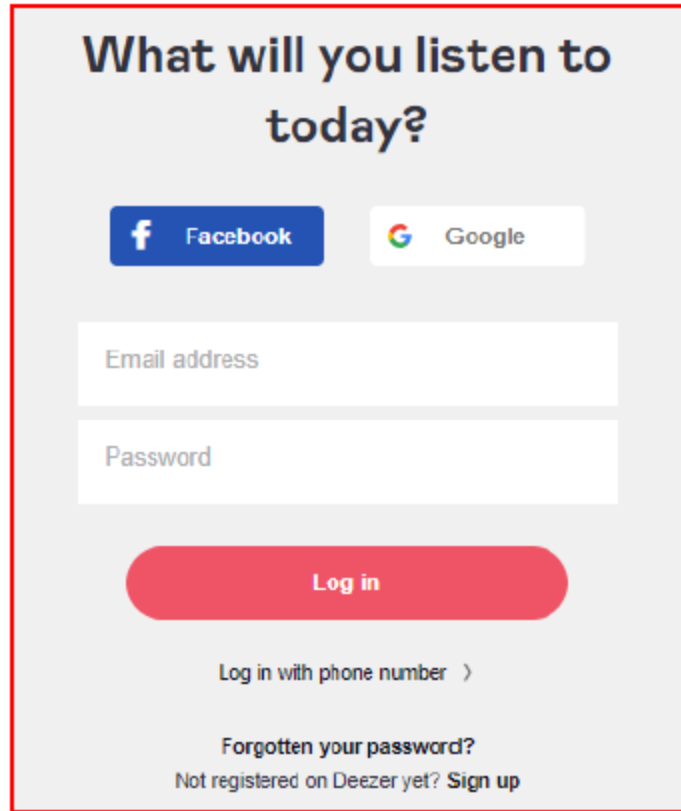
Flow is all your favorite music, mixed with fresh recommendations and songs you forgot you loved. It gets to know what you like and what you don't, and plays an infinite stream of music chosen just for you. All you have to do is press the button.

Source: <https://www.deezer.com/us/features>

A screenshot of the Deezer login page, enclosed in a red rectangular border. The page has a light gray background. At the top, the text "What will you listen to today?" is displayed in a bold, dark font. Below this, there are two buttons: a blue "Facebook" button with the Facebook logo and a white "Google" button with the Google logo. Underneath these buttons are two white input fields, one labeled "Email address" and the other "Password". Below the input fields is a large, rounded red button labeled "Log in". At the bottom of the form, there is a link "Log in with phone number" with a right-pointing arrow. Below that, there are two lines of text: "Forgotten your password?" and "Not registered on Deezer yet? Sign up".

Source: <https://www.deezer.com/us/login>

20. The at least one server necessarily determines whether the consumer device identifier corresponds to the registered consumer device (e.g., a user must be a registered user to access the Product's services). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

A screenshot of the Deezer login page. At the top, the text "What will you listen to today?" is displayed in a large, bold, black font. Below this, there are two buttons for social login: a blue button with the Facebook logo and the word "Facebook", and a white button with the Google logo and the word "Google". Underneath these buttons are two input fields: one labeled "Email address" and another labeled "Password". Below the input fields is a large, rounded red button with the text "Log in" in white. At the bottom of the form, there is a link that says "Log in with phone number" followed by a right-pointing chevron. Below that, there is a link that says "Forgotten your password?". At the very bottom, there is a link that says "Not registered on Deezer yet? Sign up". The entire form is enclosed in a red rectangular border.

Source: <https://www.deezer.com/us/login>

21. The Product provides for both media downloads and/or storage, and media streaming. After a successful login, the Product necessarily determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of media content). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Your queue list is now stored on the cloud, making it easier to enjoy non-stop music across all your connected devices. Now you can switch between mobile, tablet or desktop without losing track of your music and other content.

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The cloud-based queue list improves your cross-device listening experience by ensuring all your content is stored in the cloud as opposed to locally on just one device. All your repeat, shuffle and other audio preferences will also be synced.

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Uploading limits

- Make sure your MP3s are under 200 MB in size
- There is a limit of 2,000 MP3 tracks that can be uploaded to your Deezer account – you will not be able to access any more, even if it seems like they have uploaded
- When using Deezer on other devices, such as smartwatches, game consoles, TVs and set top boxes, you may not be able to access your personal MP3s.

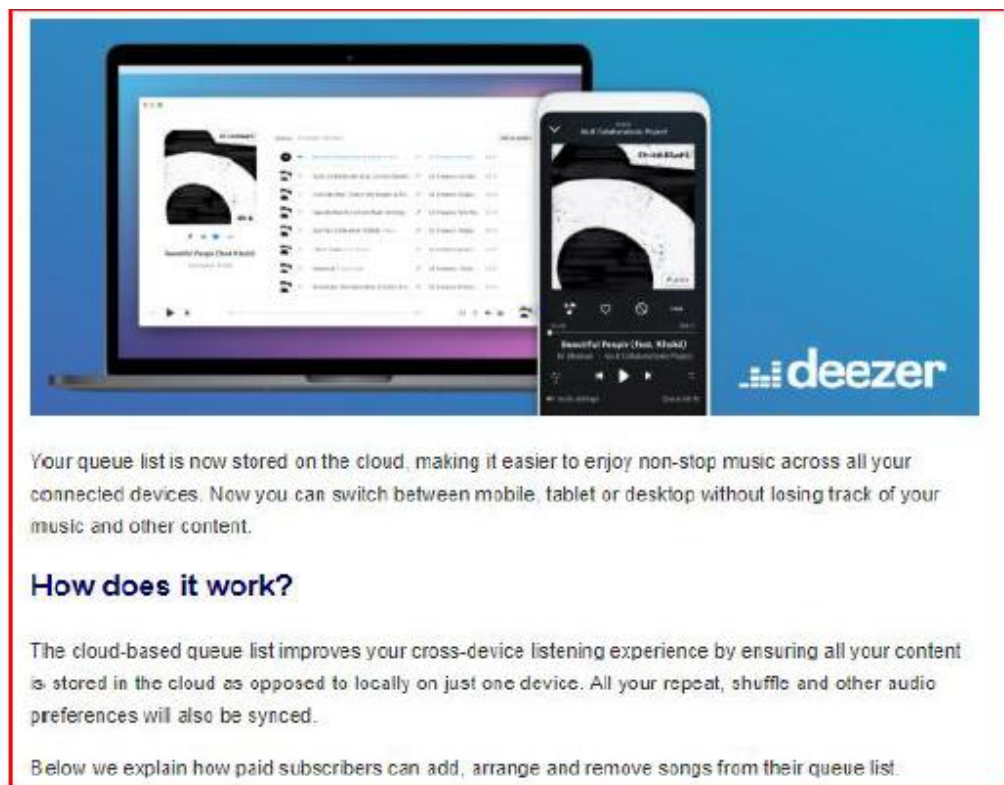
Uploading MP3s troubleshooting

If you're having trouble uploading MP3s to Deezer:

- Check for browser updates
- Check that your Flash Player is up to date
- See our [troubleshooting page](#) for more assistance

Source: <https://support.deezer.com/hc/en-gb/articles/115004221605-Uploading-MP3s-to-Deezer>

22. The Product verifies that media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The Product must verify that the media content (e.g. specific recording) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the product must verify a user's ability to store video is limited to a certain amount of memory usage based upon their subscription; thus media content may not be available for storage if a user is already above their memory limit or if the user has not subscribed to any service). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Source: <https://support.deezer.com/hc/en-gb/articles/115004529809-Cloud-based-queue-list>

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Source: <https://support.deezer.com/hc/en-gb/articles/115004221605-Uploading-MP3s-to-Deezer>

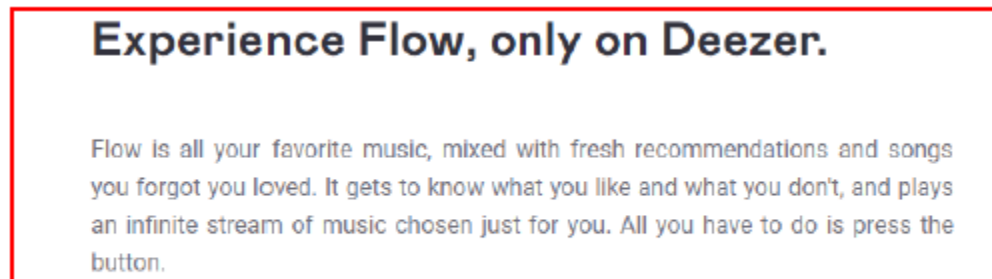
The image shows three Deezer subscription plans side-by-side. The 'Deezer Free' plan is \$0.00/month and includes 56 million tracks, Shuffle Play, and On mobile only. The 'Deezer Premium' plan is \$9.99/month and includes 56 million tracks, No ads, Get unlimited skips, Offline Mode, On all devices, and 6 profiles. The 'Deezer Family' plan is \$14.99/month and includes 56 million tracks, No ads, Get unlimited skips, Offline Mode, On all devices, and 6 profiles. The Premium plan is highlighted with a blue background and a 'Try Deezer Premium' button. The Family plan has a 'Subscribe' button. All plans have a 'More info' link.

| Deezer Free | Deezer Premium | Deezer Family |
|-----------------------|-----------------------|-----------------------|
| \$0.00 /month | \$9.99 /month | \$14.99 /month |
| ✓ 56 million tracks | ✓ 56 million tracks | ✓ 56 million tracks |
| ✓ Shuffle Play | ✓ No ads | ✓ No ads |
| ✓ On mobile only | ✓ Get unlimited skips | ✓ Get unlimited skips |
| ✗ No ads | ✓ Offline Mode | ✓ Offline Mode |
| ✗ Get unlimited skips | ✓ On all devices | ✓ On all devices |
| ✗ Offline Mode | ✗ 6 profiles | ✓ 6 profiles |
| ✗ 6 profiles | 20 days free | |
| Sign up | Try Deezer Premium | Subscribe |
| | More info | More info |

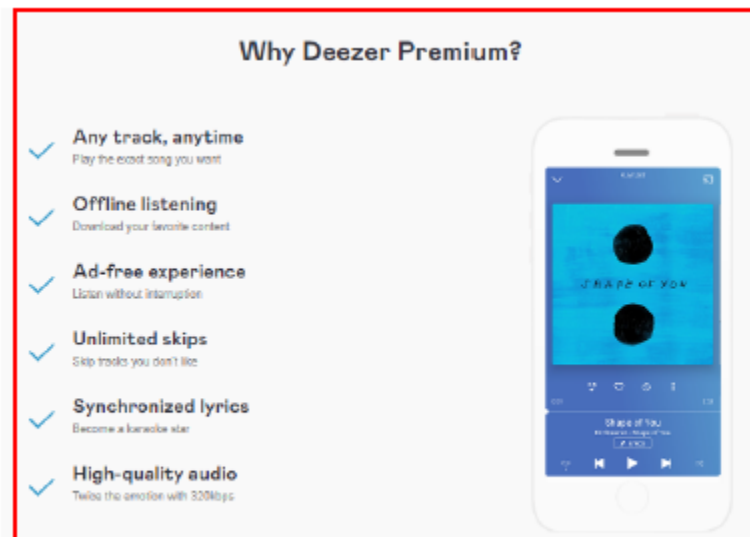
Source: <https://www.deezer.com/us/offers>

23. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The

server will initiate delivery of the requested media content to the consumer device (e.g., stream media content feed to a smartphone or tablet or desktop computer) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

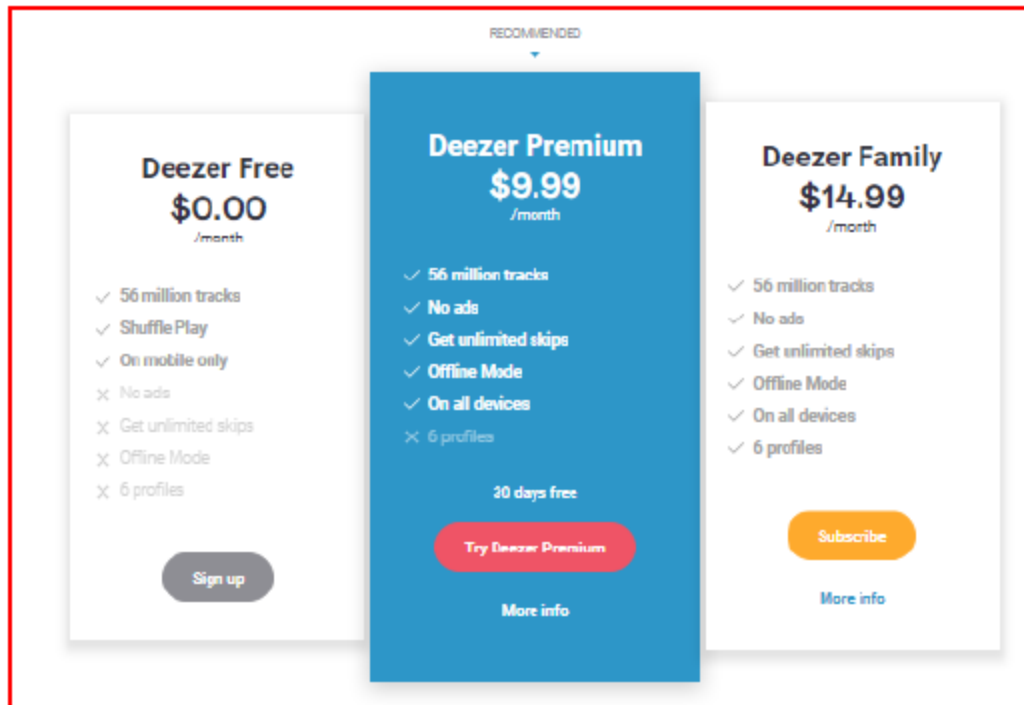


Source: <https://www.deezer.com/us/features>



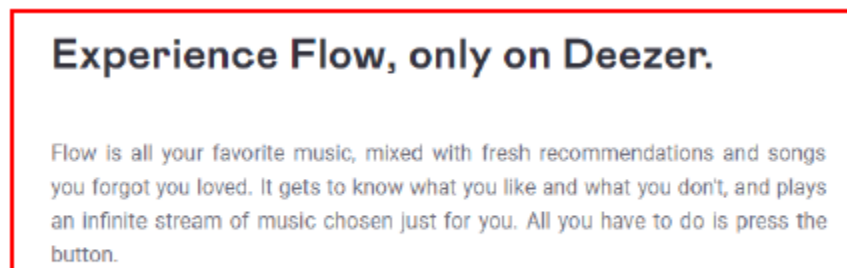
Source: <https://www.deezer.com/us/offers/premium>

24. The media data time data that indicates a length of time to store the requested media content (e.g. a user is allowed to store media content for maximum 30 days as based upon their subscription level). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

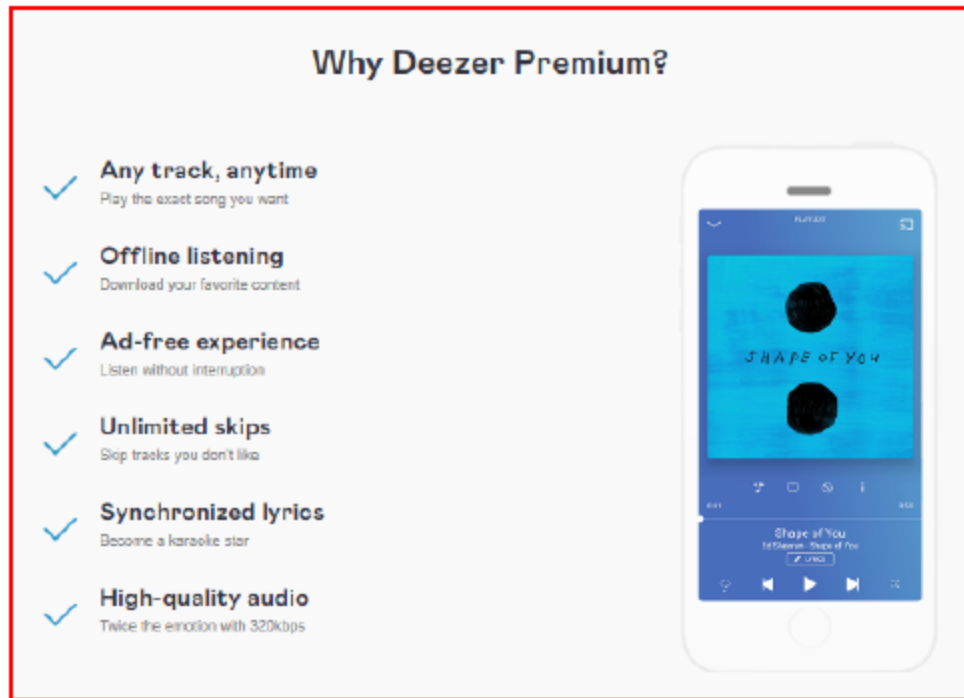


Source: <https://www.deezer.com/us/offers>

25. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the product must verify that a particular requested data is stored in the cloud). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Source: <https://www.deezer.com/us/features>



Source: <https://www.deezer.com/us/offers/premium>

26. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., subscription level etc.). Certain aspects of these elements are illustrated in the screenshots provided in connection with other allegations herein.

27. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

28. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

29. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

30. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

31. By engaging in the conduct described herein, Defendant has injured Plaintiff and is liable for infringement of the '221 Patent, pursuant to 35 U.S.C. § 271.

32. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the '221 Patent, without license or authorization.

33. As a result of Defendant's infringement of the '221 Patent, injured Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

34. Plaintiff is in compliance with 35 U.S.C. § 287.

35. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement of the '221 Patent up until the date that Defendant ceases its infringing activities.

DEMAND FOR JURY TRIAL

36. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);

(c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: March 19, 2020

Respectfully submitted,

/s/ Jimmy Chong

JIMMY CHONG, ESQ. (#4839)

CHONG LAW FIRM PA

2961 Centerville Rd.

Ste 350

Wilmington, DE 19808

302-999-9480

chong@chonglawfirm.com

**ATTORNEYS FOR PLAINTIFF
ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC**

